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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,923	05/09/2006	Tomokazu Muraguchi	10517/3.30	3859
23838	7590	06/23/2009	EXAMINER	
KENYON & KENYON LLP 1500 K STREET N.W. SUITE 700 WASHINGTON, DC 20005			NGUYEN, TU MINH	
ART UNIT	PAPER NUMBER			
		3748		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/578,923	<b>Applicant(s)</b> MURAGUCHI ET AL.
	<b>Examiner</b> TU M. NGUYEN	<b>Art Unit</b> 3748

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 27 March 2009.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1 and 3-9 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 9 is/are allowed.

6) Claim(s) 1,3,7 and 8 is/are rejected.

7) Claim(s) 4-6 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 09 May 2006 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 20090217

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

## **DETAILED ACTION**

1. An Applicant's Amendment filed on March 27, 2009 has been entered. Claims 1 and 8 have been amended. Overall, claims 1 and 3-9 are pending in this application.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1, 3, 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aramaki (U.S. Patent 5,400,591) in view of Litorell et al. (U.S. Patent 6,609,364).**

Re claims 1 and 3, as shown in Figures 2-3, Aramaki discloses a control apparatus and a control method for an internal combustion engine provided with a secondary air supply apparatus (16) that supplies secondary air to a portion upstream of an exhaust gas control device (10) in an exhaust system, the apparatus comprising:

- a detector (22) that detects failure in the secondary air supply apparatus (see also lines 57-66 of column 4); and
- a controller that limits an amount of additional fuel into a cylinder of the engine and regulate an engine air-fuel ratio to a stoichiometric value when failure in the secondary air

supply apparatus is detected by the detector (step S7 with Yes answer, steps S10 and S11; also see the Abstract).

Aramaki, however, fails to disclose that during the regulating of engine air-fuel ratio to a stoichiometric value, the controller limits an amount of air introduced into a cylinder via an intake manifold of the engine to a predetermined amount in a stepwise manner.

As shown in Figure 1, Litorell et al. disclose a method and arrangement for controlling a spark ignition direct injection combustion engine to regenerate a NO<sub>x</sub> trap (18). As illustrated in Figure 2, Litorell et al. teach that it is conventional in the art to transition the engine operation from a lean stratified mode to a stoichiometric or rich homogeneous mode to regenerate the NO<sub>x</sub> trap. To do this, the engine air-fuel ratio is first reduced (in step 28) to a lean combustion limit with reduced air flow in a stepwise manner (in step 27) and reduced fuel injection in order to maintain engine torque within a desired range, wherein the lean combustion limit is selected as a highest value where a stable combustion is still present. After the engine air-fuel ratio has reached the lean combustion limit (step 28 with YES answer), the transition to the homogeneous is permitted (in step 29) for the regeneration of the NO<sub>x</sub> trap. It would have been obvious to one having ordinary skill in the art at the time of the invention was made, to have utilized the teaching by Litorell et al. in the apparatus and method of Aramaki, since the use thereof would have been routinely practiced by those with ordinary skill in the art to effectively maintain torque balance in the engine during an engine air-fuel ratio transition.

Re claim 3, in the modified control apparatus of Aramaki, the controller reduces the amount of the air introduced into the internal combustion engine to the predetermined amount at a predetermined change rate (see Litorell et al.).

Re claim 7, in the modified control apparatus of Aramaki, as taught by Litorell et al., the controller controls an opening amount of a throttle valve provided in an intake pipe for the internal combustion engine so that the amount of the air introduced into the internal combustion engine is limited to the predetermined amount.

***Allowable Subject Matter***

4. Claim 9 is allowed.

Claims 4-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

5. Applicant's arguments with respect to the references applied in the previous Office Action have been fully considered but they are moot in view of the new ground(s) of rejection.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office Action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Prior Art***

7. The IDS (PTO-1449) filed on February 17, 2009 has been considered. An initialized copy is attached hereto.
8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and consists of one patent: Yoshida et al. (U.S. Patent 6,708,668) further disclose a state of the art.

***Communication***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Tu Nguyen whose telephone number is (571) 272-4862.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Thomas E. Denion, can be reached on (571) 272-4859. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Tu M. Nguyen/

TMN

Tu M. Nguyen

June 21, 2009

Primary Examiner

Art Unit 3748